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17 Attorneys for Plaintiff Emmanuel "Manny" Pacquiao

18 **UNITED STATES DISTRICT COURT**

19 **DISTRICT OF NEVADA**

20 EMMANUEL PACQUIAO, a Philippines  
21 resident,

22 Case No. 2:09-cv-02448

23 Plaintiff,

24 v.

25 FLOYD MAYWEATHER, JR., a Nevada  
26 resident; FLOYD MAYWEATHER, SR., a  
27 Michigan resident; ROGER  
28 MAYWEATHER, a Nevada resident;  
MAYWEATHER PROMOTIONS LLC, a  
Nevada limited liability company;  
RICHARD SCHAEFER, a California  
resident; OSCAR DE LA HOYA, a  
California resident,

Defendants.

**FIRST AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

29 COMES NOW Emmanuel "Manny" Pacquiao for his Complaint states, alleges, and avers  
30 as follows:

## **INTRODUCTION**

1. It has been said that reputations are earned in inches and destroyed in miles. That is what has happened to Manny Pacquiao.

2. Manny Pacquiao is the world's premier professional boxer. Blessed with an unmatched combination of speed, power, skill, and guile, and fueled by an indefatigable work ethic, Pacquiao is the only boxer in history to win world titles in seven different weight classes. He is a three-time Ring Magazine Fighter of the Year and, along with all-time greats Muhammad Ali and Evander Holyfield, the only man voted "Fighter of the Year" three times by the Boxing Writers Association of America. Recently, Pacquiao was honored with the prestigious "Fighter of the Decade" by the Boxing Writers Association of America, beating out future Hall of Famers Roy Jones Jr., Bernard Hopkins, Erik Morales, Marco Antonio Barrera—and importantly to this lawsuit, the "Golden Boy" Oscar de la Hoya and "Pretty Boy" Floyd Mayweather, Jr.

3. Pacquiao is a fan favorite—and boxing’s biggest draw—in part because of the controlled fury with which he fights. In the last few years, the Southpaw who throws “punches in bunches” earned victories, including devastating knockouts, of former world champions and some of the biggest names in the sport, such as Miguel Cotto, Ricky Hatton, Marco Antonio Barrera, Erik Morales, and Oscar de la Hoya.

4. Pacquiao is a hero in his native Philippines because of the grace with which he approaches his fights and the respect he displays toward his opponents and the sport itself. Over many years, Pacquiao earned and enjoys an unblemished reputation. Prior to the events giving rise to this case, Pacquiao had never been accused of cheating in any way.

5. However, beginning in September 2009 (perhaps earlier), boxer Floyd Mayweather, Jr., and numerous associates, including his father Floyd Mayweather, Sr., his uncle and trainer Roger Mayweather, his promotion company Mayweather Promotions, and boxing promoters Richard Schaefer and Oscar de la Hoya, stated publicly that Pacquiao has used and is using performance-enhancing drugs, including steroids.

6. These statements of fact—which Mayweather, Jr. and the others made verbally, in writing, and repeatedly over the course of the ensuing months—are false.

7. Mayweather, Jr. and the others knew their statements were false and that there was no evidence to substantiate them. All the evidence is to the contrary. For more than 10 years, Pacquiao has undergone random drug tests—before and after his fights—administered by state boxing and athletic commissions and has *never* tested positive for any performance-enhancing or other drug.

8. But the truth did not stop Mayweather, Jr. and the others. That is because they are motivated by ill-will, spite, malice, revenge, and envy. Mayweather, Jr. and the others set out on a course designed to destroy Pacquiao's career, reputation, honor, and legacy, and jeopardize his ability to earn the highest levels of compensation.

9. Precisely as they intended, Pacquiao has suffered irreparable damage to his career and reputation. There is nothing more injurious to a professional athlete than to be publicly branded a cheater; and in today's world, to be falsely accused of taking steroids and other performance-enhancing drugs is deadly. In the court of public opinion, "illegal performance enhancement is the new witch hunt, the new red scare... [i]f you were accused of it, you were it, until you proved otherwise."<sup>1</sup> But this is a court of law and the defendants must answer for their false statements.

## PARTIES

10. Plaintiff Manny Pacquiao (“Pacquiao” or “Plaintiff”) is, and at all times herein mentioned was, an individual with his primary residence in the Philippines.

11. Plaintiff is informed and believes, and on that basis alleges, that Defendant Floyd Mayweather, Jr. (“Mayweather, Jr.”) is, and at all times herein mentioned was, an individual with his primary residence in Clark County, Nevada.

12. Plaintiff is informed and believes, and on that basis alleges, that Defendant Floyd Mayweather, Sr. (“Mayweather, Sr.”) is, and at all times herein mentioned was, an individual with his primary residence in Michigan. Mayweather Sr. regularly conducts business in Clark County, Nevada.

13. Plaintiff is informed and believes, and on that basis alleges, that Defendant Roger

<sup>1</sup> G. Doyel, *Boxing's bloody mess: Pacquiao meet McGwire*, CBS Sports, Dec. 27, 2009, available at <http://www.cbssports.com/columns/story/12711653/boxings-bloody-mess-pacquiao-meet-mcgwire>

1 Mayweather is, and at all times herein mentioned was, an individual with his primary residence in  
2 Clark County, Nevada.

3           14. Plaintiff is informed and believes, and on that basis alleges, that Defendant  
4       Mayweather Promotions LLC (“Mayweather Promotions”) is, and at all times herein mentioned  
5       was, a limited liability company existing under the laws of the State of Nevada with its principal  
6       offices located in Las Vegas, Nevada, and at all relevant times was doing business in Clark  
7       County, Nevada.

8           15. Plaintiff is informed and believes, and on that basis alleges, that Defendant Richard  
9 Schaefer (“Schaefer”) is, and at all times herein mentioned was, an individual with his primary  
10 residence in California. Schaefer regularly conducts business in Clark County, Nevada.

11                   16. Plaintiff is informed and believes, and on that basis alleges, that Defendant Oscar  
12 de la Hoya (“de la Hoya”) is, and at all times herein mentioned was, an individual with his primary  
13 residence in California. de la Hoya regularly conducts business in Clark County, Nevada.

## **JURISDICTION AND VENUE**

15           17. This Court has jurisdiction of this matter pursuant to 28 U.S.C. section 1332(a)  
16 because plaintiff and defendants are citizens of different states and the amount in controversy  
17 exceeds \$75,000 exclusive of interest, attorney fees, and costs.

18           18. Venue is proper in this District pursuant to 28 U.S.C. section 1391(a)(3) because  
19 certain defendants are subject to personal jurisdiction in this district at the time this action  
20 commenced.

## **COMMON ALLEGATIONS**

## BACKGROUND

23           19. Manny Pacquiao is the world's top "Pound for Pound" professional boxer. He  
24 holds a record of 51 wins—38 by knock-out—with only 3 losses. Pacquiao is undefeated in the  
25 last five years, rattling off 12 straight victories in 11 world championship bouts, including eight by  
26 way of knockout. Pacquiao is one of the most decorated boxers of all time:

- Fighter of the Decade (2000-2009) by Boxing Writers Association of America:

- 1           • *Ring Magazine*'s "Fighter of the Year" in 2006, 2008, and 2009—the first  
2           three-time winner of the award;
- 3           • 2006, 2008 and 2009 Fighter of the Year by the Boxing Writers Association  
4           of America—only Muhammad Ali and Evander Holyfield have been  
5           similarly honored;
- 6           • 2009 Sports Illustrated "Fighter of the Year";
- 7           • In a poll sponsored by HBO, *fans* voted Pacquiao "Fighter of the Decade";
- 8           • Only boxer in history to win world titles in seven different weight classes;
- 9           • Only boxer in history to win the so-called "lineal championship"—beating a  
10           boxer universally acclaimed as the best in the class—in four different  
11           weight classes;
- 12           • Five-time Philippine Sportswriters Association "Sportsman of the Year."

13           20. Whether judged by ticket sales, pay-per-view buys, endorsements, or any other  
14           relevant metric, Pacquiao is one of the most—if not the most—popular boxers fighting today.

15           21. But Pacquiao is much more than a boxer. *Time Magazine* named Pacquiao one of  
16           the world's most influential people in 2009, for his success in the ring and his influence among the  
17           Filipino people. *Forbes* listed Pacquiao as the world's sixth highest-paid athlete, with total  
18           earnings of \$40 million from the second half of 2008 to the first half of 2009.

19           22. Pacquiao is an icon in his native Philippines, where his life was chronicled in a  
20           motion picture and he is an accomplished music recording artist and the star in an upcoming  
21           movie. Pacquiao ran for the Philippine Congress in 2007 and is running again this year. The  
22           President of the Philippines, Gloria Arroyo, described Pacquiao as "an icon of the masses" and  
23           "one of our nation's heroes who can unite us even in times of divisiveness." Pacquiao is the first  
24           Filipino athlete featured on a Filipino postage stamp.

25           23. Through years of hard work, Pacquiao has earned an unblemished reputation. Prior  
26           to the events giving rise to this case, he had never been accused of cheating in any way. Pacquiao  
27           has undergone random drug tests—before and after his fights—and has never tested positive for  
28           any performance-enhancing drug. Pacquiao has passed the Nevada Athletic Commission's drug

1 tests at least 10 times.

2           24. Floyd Mayweather, Jr. is also an accomplished boxer. He is a former “Pound for  
3 Pound” champion and also was named *Ring Magazine*’s Fighter of the Year. Mayweather, Jr.,  
4 who is undefeated, has twice announced his retirement from boxing, only to return to the ring for  
5 lucrative matchups. In mid-2009, reporters, commentators, and the public began calling for a  
6 matchup between Pacquiao and Mayweather, Jr. to take place at the famed MGM Grand in Las  
7 Vegas, Nevada.

8           25. Mayweather, Jr. hired boxing promoter Golden Boy Promotions, Inc. to represent  
9 him in the negotiations against representatives of Pacquiao. Even before being hired by  
10 Mayweather, Jr. to negotiate a deal to fight Pacquiao, Golden Boy Promotions—and its two  
11 highest-ranking executives, CEO Richard Schaefer and founder Oscar de la Hoya—harbored  
12 animus towards Pacquiao because, among other reasons:

- 13           • In 2006, Pacquiao elected to be promoted by Golden Boy’s main rival in the  
14           boxing promotion industry, Top Rank, Inc., rather than Golden Boy;
- 15           • In 2007, Pacquiao sued Golden Boy and others because they unsuccessfully  
16           tried to coerce the Filipino boxer to break his agreement with Top Rank and  
17           sign a new deal with Golden Boy;
- 18           • In October 2007, Pacquiao defeated by unanimous decision boxing legend  
19           Marco Antonio Barrera, who is promoted by and an owner of Golden Boy;
- 20           • In March 2008, Pacquiao defeated Juan Manuel Marquez, another boxing  
21           legend promoted by Golden Boy;
- 22           • In December 2008, Pacquiao scored such a lop-sided knockout victory over  
23           Golden Boy founder Oscar de la Hoya that de la Hoya was forced into  
24           retirement;
- 25           • In May 2009, Pacquiao scored an electrifying second-round knockout over  
26           another fighter promoted by Golden Boy, Ricky Hatton.

27           26. Golden Boy, Schaefer, de la Hoya, and the Mayweathers conspired to destroy  
28 Pacquiao’s reputation and call into question the legitimacy of his victories over Golden Boy

1 fighters, his professional achievements, and his legacy as one of the greatest fighters of all time.

2       27. Acting on behalf of one another and in concert, all defendants agreed to make and  
 3 ratify false statements of fact about Pacquiao to achieve their sole malicious objective, which was  
 4 to destroy the reputation of the Filipino superstar. None of their statements were made before nor  
 5 directed to the Nevada Athletic Commission or any other governmental body.

6                   FALSE STATEMENTS ABOUT PACQUIAO

7       28. Mayweather, Sr. is a boxing trainer. Among other fighters, he trains Ricky “the Hit  
 8 Man” Hatton. Pacquiao defeated Hatton by a spectacular second-round knockout on May 3, 2009.  
 9 On or around September 15, 2009, shortly after a well-known boxing commentator suggested a  
 10 bout between Pacquiao and Mayweather, Jr., Mayweather, Sr. gave an interview to the *Grand*  
 11 *Rapids Press*. During the interview, Mayweather, Sr. directly asserted that Pacquiao used  
 12 performing-enhancing drugs, “The steroids aren’t going to make [Pacquiao] no faster. It’s going  
 13 make him relentless and hit strong, but that’s it.” Mayweather, Sr.’s statement was published in  
 14 the *Grand Rapids Press* on-line and circulated across numerous websites including  
 15 boxingscene.com, doghouseboxing.com, and univision.com.

16       29. On information and belief, in mid-September 2009, a sports reporter for the  
 17 Philippines publication *Manila Standard Today* and boxing website philboxing.com Ronnie  
 18 Nathanielsz, visited Golden Boy’s offices in Los Angeles. Mr. Nathanielsz met with Golden Boy  
 19 CEO Schaefer to discuss several boxing topics, including Pacquiao. During the meeting, Schaefer  
 20 stated that he was sure Pacquiao was using performance-enhancing drugs and had used them in the  
 21 past.

22       30. Approximately 5 weeks later, on or around October 29, 2009, Mayweather, Jr. gave  
 23 an interview on Sirius Satellite Radio. During the nationally-broadcast interview, the host asked  
 24 Mayweather, Jr. to explain how his physical development differed from that of Pacquiao. When  
 25 Mayweather, Jr. responded, “cause we know the Philippines got the best enhancing drugs,” the  
 26 host observed, “[s]o he’s saying Pacquiao’s taking enhancement drugs.”

27       31. A few weeks after Mayweather, Jr.’s radio interview, on November 14, 2009,  
 28 Mayweather, Sr. told Yahoo! Sports reporter Martin Rogers that Pacquiao’s development was not

1 natural:

2 If I was Floyd I wouldn't fight him because of that. It just don't  
 3 add up. Take a look at them old pictures, man. That's a different  
 4 dude. And he got knocked out when he was 30 pounds lighter, but  
 now he can stand there and take Cotto's [reference to the November  
 14, 2009 bout] best shots? Come on.

5 32. Then again, on or around November 25, 2009, Mayweather, Sr. gave an interview  
 6 to *Sports Illustrated*. During the interview, "Mayweather, Sr. said Pacquiao's ability to take [a  
 7 recent opponent's] power punches proved the champion [Pacquiao] was taking performance-  
 8 enhancing substances." Mayweather, Sr. added that his son is the "best" fighter in the world,  
 9 "[b]ut when [your opponent] uses something illegal, even the best can get hurt."

10 33. Having already made false public statements that Pacquiao had taken performance-  
 11 enhancing drugs in the past, Mayweather, Jr. and his representatives began asserting that Pacquiao  
 12 was currently taking them. Mayweather, Jr. and his representatives made these false statements of  
 13 fact even though they knew Pacquiao was prepared and offered to submit to a blood test in  
 14 January 2010, another blood test 30 days before a potential fight with Mayweather, Jr., a third  
 15 blood test immediately upon conclusion of the fight, and random urine tests at any point in  
 16 between. Furthermore, Pacquiao agreed to submit to any tests ordered by the Nevada Athletic  
 17 Commission, the body with jurisdiction over fights taking place in Nevada. This level of scrutiny  
 18 would be unprecedented in professional prize fighting.

19 34. Despite this, on or around December 23, 2009, *The New York Times* reported that  
 20 Leonard Ellerbe, the CEO of Mayweather Promotions, stated: "This is a simple question. If you  
 21 have nothing to hide, then why not comply [with even more blood tests]?"

22 35. The same day, Mayweather, Jr. issued a statement that he had "great doubt as to the  
 23 level of fairness I would be facing in the ring that night." Numerous news outlets—including  
 24 ESPN, Financial News USA, TIME, and Yahoo!—reported Mayweather, Jr.'s statement.

25 36. de la Hoya, who was knocked out by Pacquiao one year ago, wrote on his widely-  
 26 read internet "blog":

27 If Pacquiao, the toughest guy on the planet, is afraid of needles and  
 28 having a few tablespoons of blood drawn from his system, then  
 something is wrong. The guy has tattoos everywhere; he's tattooed

1 from top to bottom. You're telling me he's afraid of needles? ...  
 2 Now I have to wonder about him. I'm saying to myself, "Wow,  
 3 those Mosley punches, those Vargas punches and those Pacquiao  
 4 punches all felt the same." I'm not saying yes or no. I'm just  
 5 saying that now people have to wonder, "Why doesn't he want to  
 6 do [even more blood tests]? Why is it such a big deal?"

7 By comparing Pacquiao to Mosley and Vargas, de la Hoya intended to convey and did convey  
 8 that Pacquiao was taking performance-enhancing drugs. Fernando Vargas tested positive for  
 9 performance-enhancing drugs after a 2002 fight against de la Hoya and Shane Mosley admitted  
 10 taking steroids before fighting de la Hoya a year later.

11       37. de la Hoya made these statements out of malice and spite. In fact, months earlier  
 12 de la hoya said precisely the opposite, "[Pacquiao] didn't hit hard. He didn't really hurt me."

13       38. de la Hoya continued to publicly make defamatory comments about Pacquiao:  
 14 "Why don't you want to do it? C'mon. It's only a little bit of blood. If you have nothing to hide,  
 15 then do the test."

16       39. In a deliberate effort to further undermine Pacquiao's reputation and professional  
 17 credibility, Mayweather and his representatives falsely told the *New York Daily News* that during  
 18 contract negotiations Pacquiao had asked what penalties he would face if he tested dirty and if a  
 19 dirty test could be kept secret. The *New York Daily News* published these false statements.

20       40. In callous disregard for Pacquiao's reputation, Roger Mayweather—Mayweather,  
 21 Jr.'s uncle and trainer—made additional false statements of fact about Pacquiao. A December 30,  
 22 2009 column from Boxingscene.com reported that Roger Mayweather stated: "I know he's got  
 23 somethin' in his system anyway." Roger Mayweather added: "We gonna' find out what he got in  
 24 his system when these real doctors have him take the tests."

25       41. On January 24, 2010, Roger Mayweather stated on a popular boxing radio show,  
 26 "[Pacquiao] is on the A-side meth, that's what the f\*\*\* he's on." "It's called the A-side meth."

27       42. On or about March 4, 2010, at press junket for his upcoming fight, Mayweather, Jr.  
 28 stated that "Pacquiao's got the power pellets, yo, and the steroid juice. Pacquiao got the power  
 29 pellets you know."

#### HARM TO PACQUIAO

30       43. As intended, defendants' false statements have had an instant and devastating

1 impact on Pacquiao's professional and personal reputation.

2       44. As Kevin Iole of Yahoo! Sports reported, "There was never any suspicion that  
 3 Pacquiao had ever taken banned substances until earlier this year, when Floyd Mayweather, Sr.  
 4 suggested he was on steroids."

5       45. In Rick Reeno's December 28, 2009 BoxingScene.com column, he discussed the  
 6 direct and permanent effect these defamatory statements of fact have already had on Pacquiao:

7           The entire situation has created a cloud of doubt that floats above  
 8 the head of Pacquiao and his career. Even if both sides agree to  
 9 abandon the tests, Pacquiao's career has suffered a crack. The  
 10 severity of the crack is unknown but the crack is there and very  
 11 real. ... In the last week, I've received a lot of calls from people  
 12 within the boxing industry, and casual fans of the sport, and one of  
 13 the first questions to roll out of their mouths - 'do you think Manny  
 14 Pacquiao is taking steroids?'

15       46. Other prominent individuals in the mixed martial arts and boxing fields have stated:  
 16 "Mayweather still has won, because even if Pacquiao does win the fight, there is still a shadow  
 17 cast on Pacquiao's cleanliness, if you will."

18       47. Pacquiao's ability to earn the highest level of purses, endorsements, and other  
 19 contracts has been irreparably harmed and his unblemished reputation irreversibly tarnished.

### 17           **FIRST CLAIM FOR RELIEF**

18           (Defamation *Per Se* Against All Defendants)

19       48. Plaintiff restates and re-alleges all allegations contained in Paragraphs 1 through  
 20 47, inclusive, as though fully set forth in this paragraph.

21       49. The defendants, and all of them, have made and endorsed the making of statements  
 22 that Pacquiao has used and is using performance-enhancing drugs in violation of boxing  
 23 regulations. In doing so, the defendants acted on behalf of and as agents of one another. These  
 24 statements of fact are false and defamatory *per se*.

25       50. The defendants' statements harmed Pacquiao's reputation in the public, excited  
 26 derogatory opinions against him, and caused the public and others to hold Pacquiao in contempt.  
 27 They also impute the commission of a crime and call into question Pacquiao's fitness to perform  
 28 in his trade, business, and profession.

51. Defendants' statements were made to reporters, newspapers, and other public outlets, among other places and persons. The statements were not privileged.

52. Given Pacquiao's spotless record with drug tests over the course of his 15-year career and the absence of any evidence suggesting his use of performance-enhancing drugs, defendants issued these statements with actual knowledge that such statements were false and in reckless disregard for their falsity. In either case, defendants issued these statements intending to harm Pacquiao.

53. As a direct and proximate result of defendants' statements, Pacquiao has been and continues to be damaged in an amount to be proven at trial far in excess of \$5,000,000. Furthermore, because defendants' conduct was undertaken in bad faith and with fraud, malice, and oppression, Pacquiao is entitled to punitive damages. The defendants are jointly and severally liable for all the conduct and damages alleged herein.

WHEREFORE, Plaintiff Emmanuel Manny Pacquiao prays for judgment against defendants as follows:

1. General and special damages in an amount to be proven at trial in excess of \$5,000,000.00;
  2. Presumed damages based on, among other things, harm to Pacquiao's reputation;
  3. Punitive damages;
  4. Reasonable attorney fees;
  5. All costs of suit incurred herein; and

1           6. Such other and further relief as the Court may deem proper.  
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Dated: March 17, 2010

5           LEWIS AND ROCA LLP  
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By: \_\_\_\_\_/s/ Eric D. Hone \_\_\_\_\_  
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11           *Attorneys for Plaintiff*  
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**DEMAND FOR JURY TRIAL**

1 Please take notice that Plaintiff, Emmanuel Pacquiao, hereby demands trial by jury on all  
2 triable issues in this action.

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Dated: March 17, 2010

LEWIS AND ROCA LLP

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6

By: /s/ Eric D. Hone  
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